



Commissioners

Gael Tarleton
Commission President

Tom Albro
Bill Bryant
John Creighton
Rob Holland

P.O. Box 1209
Seattle, Washington 98111
www.portseattle.org
206.787.3000

Tay Yoshitani
Chief Executive Officer

Audio and video recordings of the meeting proceedings and meeting materials are available on the Port of Seattle web site – www.portseattle.org. The approximate point in the video recording for each agenda item is identified by hours, minutes, and seconds; example: 00:01:30.

**APPROVED MINUTES
COMMISSION SPECIAL MEETING OCTOBER 23, 2012**

The Port of Seattle Commission met in a special meeting Tuesday, October 23, 2012, in the International Auditorium at Seattle-Tacoma International Airport, Seattle, Washington. Commissioners Albro, Bryant, Creighton, Holland, and Tarleton were present. Commissioner Bryant was absent after 5:11 p.m.

1. CALL TO ORDER

The special meeting was called to order at 11:01 a.m. by Gael Tarleton, Commission President.

2. EXECUTIVE SESSION pursuant to RCW 42.30.110

The special meeting was immediately recessed to an executive session estimated to last approximately two hours to discuss matters relating to a complaint against a public officer, legal risk, sale or lease of real estate, and potential litigation. Following the executive session, which lasted approximately 90 minutes, the special meeting reconvened in open public session at 1:04 p.m.

PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES

None.

4. SPECIAL ORDERS OF BUSINESS

None.

5. (00:01:50) UNANIMOUS CONSENT CALENDAR

[Clerk's Note: Items on the Unanimous Consent Calendar are considered routine and are not individually presented or discussed; however, the Port Commissioners receive the request documents for review prior to the meeting and have an opportunity to remove items from the Consent Calendar for separate discussion and vote in accordance with the Commission bylaws.]

- 5a. Authorization for the Chief Executive Officer to execute a contract for federal government relations advocacy services for monitoring of federal legislation and regulatory activity, and acting on behalf of the Port at the Port's direction. The proposed contract term is a one-year contract with two, one-year options for an estimated total cost of \$720,000.**

Request document(s): Commission agenda [memorandum](#) dated October 11, 2012, provided by Patricia Akiyama, Director, Public Affairs, and Beth Osborne, Manager, Federal Government Relations.

- 5b. Authorization to (1) increase the Central Terminal Freight Elevator project budget from \$6,664,000 to \$8,318,000; (2) authorize the Chief Executive Officer to advertise and award a major construction contract for the Central Terminal Freight Elevator project at Seattle-Tacoma International Airport; and (3) authorize Port Construction Services to perform support work. The total project cost is \$8,318,000.**

Request document(s): Commission agenda [memorandum](#) dated October 15, 2012, existing elevator system [diagram](#), [diagram](#) of Main Terminal elevator locations, [cross-section and plan](#) of concessions supply route into the Airport terminal, and computer slide [presentation](#) provided by David Soike, Director, Aviation Facilities and Capital Program; James R. Schone, Director Aviation Business Development; and Wayne Grotheer, Director, Aviation Project Management Group.

- 5c. Authorization of the Chief Executive Officer to execute a contract for equipment, to design building modifications to accommodate the equipment, and to use Port crews for construction of the Security Exit Lane Breach Control project at Seattle-Tacoma International Airport. This authorization is for \$850,000 of a total estimated project cost of \$950,000.**

Request document(s): Commission agenda [memorandum](#) dated October 11, 2012, project location [diagram](#), and project area [floor plan](#) provided by Wayne Grotheer, Director, Aviation Project Management Group, and Wendy Reiter, Director, Aviation Security and Emergency Preparedness.

Motion for approval of consent items 5a, 5b, and 5c – Creighton

Second – Holland

Motion carried by the following vote:

In Favor: Albro, Bryant, Creighton, Holland, Tarleton (5)

(00:03:19) PUBLIC TESTIMONY

As noted on the agenda, public comment was received from the following individual(s):

- Gary Yancey, employed by aircraft fueler Aircraft Service International (ASIG). Mr. Yancey commented on safety conditions at ASIG and poor compensation. He submitted his comments in written form. A copy of the document is, by reference, made a part of these minutes, is marked [exhibit A](#), and is available for inspection in Port offices.

- Carol Harris-Davis, Elder at God First Christian Ministries International and First Vice President of SEIU (Services Employees International Union) Local 925. Ms. Harris-Davis commented on the difficulties for aircraft fuelers, whom she said do not earn enough and are not treated with respect.
- Yemane Gebremicael, President of African Diaspora of Washington. Mr. Gebremicael commented that workers, management, passengers, and airlines all have an interest in safety at the Airport.
- Rahwa Habte, organizer for OneAmerica. Ms. Habte commented on concerns about safety conditions at the Airport and her support for aircraft fuelers.
- Leon Sams, employed by ASIG. Mr. Sams commented on conditions at ASIG and the responsiveness of the company to safety complaints and asked that the Port take better care of Airport workers.
- Cecilia Cordova, Founder and Co-Manager of Pacific Alliance Law Group, representing Filo Foods and BF Foods. Ms. Cordova spoke in opposition to agenda item 6b, a motion dealing with dismissal or modification of the injunction in *CityIce Cold Storage v. the Port of Seattle*. She stated that the motion would create an employee property interest in a continued right of employment, a right she stated does not exist in Washington state. She commented on the legal consequences of modification of the *CityIce* injunction, stating that the National Labor Relations Board has ruled that a new employer may lawfully decline to hire former employees and that employees have no reasonable expectation of being employed by a new employer.
- Gerry Pollet, State Representative for Washington's 46th Legislative District. Representative Pollet commented on agenda item 6a, opined that at least an appearance of conflict of interest exists in the Chief Executive Officer's election to the Board of Directors of Expeditors International, and criticized the Port for not releasing records quickly in response to his request for disclosure of public records.

6. DIVISION, CORPORATE, AND COMMISSION ACTION ITEMS

6a. (00:22:10) Motion regarding the waiver of attorney-client privilege on the legal opinion prepared by outside counsel related to the Chief Executive Officer's election to the Expeditors International Board of Directors.

Request document(s): Computer slide [presentation](#) dated October 23, 2012, provided by consultant LeeAnn Pelham and [text of motion](#) dated October 23, 2012.

Commissioner Tarleton stated that a temporary committee had retained independent counsel to review the Chief Executive Officer's appointment to the Board of Directors of Expeditors International and that the reports submitted in response to the requested investigation would be made available to the public and posted on the Port's website before the close of business on October 23, 2012. A memorandum of opinion dated October 22, 2012, by Gerry L. Alexander; review of Port of Seattle ethics policies dated October 23, 2012, by LeeAnn Pelham; and timeline of pertinent events dated October 23, 2012, by Russ Perisho are, by reference, made a part of these minutes, are marked Exhibits [B](#), [C](#), and [D](#), respectively, and are available for inspection in Port offices.

The motion was read for the record by Commissioner Creighton as follows:

The Commission hereby authorizes a limited waiver of attorney-client privilege solely on the legal opinion prepared by Gerry Alexander related to the Chief Executive Officer's election to the Expeditors Board of Directors and authorizes staff to post the opinion on the Port's website for public view. LeeAnn Pelham's review of ethics issues and the timeline of pertinent events shall also be posted on the Port's website for public view. The Commission appoints Commissioner Tom Albro as the spokesperson for the Commission on the outcome of the temporary committee's work until further notice.

[Clerk's Note: The motion as read into the record above varies from that attached to the meeting agenda posted for public view on October 18, 2012.]

Motion for approval of item 6a, as read into the record – Holland

Second – Creighton

Motion carried by the following vote:

In Favor: Albro, Bryant, Creighton, Holland, Tarleton (5)

Commissioner Albro summarized the process of retaining counsel and independent review of Port ethics policies in accordance with the Commission's motion adopted on September 11, 2012, under agenda item 8a. He noted the retention of retired Washington Supreme Court Justice Gerry L. Alexander, attorney Russ Perisho, and ethics expert LeeAnn Pelham.

Former Chief Justice Alexander reported that he found no evidence of a real or perceived conflict of interest on the part of the Chief Executive Officer in his membership on the Expeditors International Board of Directors, noting the following findings and observations related to the question, Does the CEO's participation on the Board of Directors of Expeditors International create or appear to create a conflict of interest or is it contrary to statutory provisions or provisions of the Codes of Ethics applicable to employees or Commissioners of the Port of Seattle:

- The CEO of the Port of Seattle is a public official subject to Washington's Code of Ethics for Municipal Officers as well as the Port of Seattle Employee Code of Conduct and by analogy the Code of Ethics for Port Commissioners;
- Despite being a unique form of public agency with diverse lines of business and relationships with many nongovernmental entities, a port district is not a quasi-private entity, but rather is as much a public agency as other municipal corporations, such as cities and towns, school districts, and public utility districts;
- Mr. Yoshitani's current retention agreement, which permits him to participate on the board of directors of a private entity on his own time, was executed prior to discussions between him and Expeditors International regarding the possibility of his serving on their board;
- Expeditors International does not perform work for the Port and has no contracts or other direct relationships with the Port, although the company has contracts with air and ocean freight companies that use Port facilities;

- The Port's role in approval of an application by Expeditors International to be designated a foreign trade zone appears to be ministerial in nature as the Port simply acts to forward, without further discretion, the company's application to appropriate federal authorities;
- In accordance with the requirements of his retention agreement, Mr. Yoshitani consulted with Port General Counsel Craig Watson on whether serving on the Board of Expeditors International would constitute a conflict of interest or ethics violation and was advised that it would not;
- The director position held by Mr. Yoshitani does not manage day-to-day operations of Expeditors International;
- In an opinion dated September 10, 2012, attorneys Timothy Leyh and Katherine Kennedy of the law firm Calfo Harrigan Leyh & Eakes LLP concluded there was no ethical prohibition to Mr. Yoshitani's acceptance of the Board of Directors position with Expeditors International stemming from the Port's codes of conduct for employees or Commissioners or Washington's Code of Ethics for Municipal Officers (Chapter 42.23 RCW);
- Mr. Yoshitani appears to have complied with the terms of his retention agreement;
- The absence of contracts or direct relationships between the Port and Expeditors render with little relevance RCW 42.23.030, which prohibits beneficial interest by a municipal officer in certain contracts;
- The facts do not support a conclusion that Mr. Yoshitani has used his public position to secure a special privilege for himself or Expeditors International as prohibited in RCW 42.23.070;
- Mr. Yoshitani has indicated the willingness to disqualify himself from future actions that might result in possible future opportunities for such privileges and it was noted that consideration for hypothetical future lease rate reductions for terminal operators would apply equally to all competitors due to the Port's "most favored nation" approach;
- Under the Port's employee code of conduct, it is failure to report a conflict or recuse oneself from decision-making that constitute a violation, rather than the existence of the conflict; and
- The "reasonable person" standard for a "perceived" conflict of interest, if borrowed from the Appearance of Fairness doctrine, suggest that no perceived conflict of interest exists, primarily because there are no contractual or direct business relationships between the Port and Expeditors International.

Mr. Alexander proposed that future retention agreements for the Port Chief Executive Officer might require Port Commission approval for service on private boards in addition to the requirement for review by the Port's General Counsel.

In response to Commissioner Creighton, Mr. Alexander clarified that in reviewing whether an "apparent" conflict of interest exists, use of an objective standard is preferable to a subjective one and that it is important to consider the relevant facts. Commissioner Creighton added that in future contracts, he would not favor having a provision like the one that currently outlines participation on private boards.

Commissioner Holland stated he would not favor future contract agreements with Port Chief Executive Officers. In response to Commissioner Holland, Mr. Alexander explained that use of Port equipment in the case of Mr. Yoshitani's Expeditors Board membership appears to be compliant with the Port's Employee Code of Conduct in that email communication between the CEO and Expeditors in the early stage of his relationship with the company appear to meet the Code of Conduct definition of incidental use.

Ms. Pelham, the former Executive Director of the Los Angeles City Ethics Commission, reported on her review of Port of Seattle ethics policies, in which she noted the following recommendations, noting that a reasonable person who knows the facts of a situation could conclude an appearance of conflict of interest, notwithstanding a contrary legal assessment:

- Include in the Port's ethics policies a standard similar to that found in the Seattle Municipal Code of Ethics to determine when reporting of an apparent conflict of interest is warranted;
- Take steps to quantify payments to employees and Commissioners from nongovernmental entities to evaluate whether current policy is adequate in this area and reinforce transparency around these transactions;
- Add policy language to prevent negotiation of future employment with persons who have a matter currently pending before an employee or official;
- Adopt a standard recusal reporting method and a review process for ongoing or recurring recusals;
- Make implementation of regular and broad-based financial disclosure a priority; tailor such disclosures to interests that could be affected by conduct of official duties; and include disclosure of decision-making positions held in any such interests;
- Strengthen the ethics component of new Port Commissioner orientation;
- Reconstitute a semi-independent Port Ethics Panel;
- Establish an Ethics and Governance standing committee to advise on application of the Code of Ethics, review financial disclosure, and investigate and sanction violations by Commissioners; and
- Restructure the Workplace Responsibility Office to reinforce its applicability throughout the agency, rather than as a component of the Legal Department, and organize it to have direct reporting to the CEO and potentially joint reporting to an ethics committee of the Commission.

Commissioner Tarleton commented on the possibility of future conflicts of interest for the CEO if serving on a private board and her perception of the public view that the CEO should choose between a position in a public agency and service on a private board.

Commissioner Creighton commented on the potential for conflicts of interest for Commissioners and the importance of developing measures to avoid indications of impropriety.

6b. (02:12:46) Motion of the Port of Seattle Commission concerning the *City/ce* Injunction.

Request document(s): [Text of motion](#) dated October 23, 2012 provided by the Office of the Commission.

The motion was read for the record by Commissioner Creighton as follows:

The Commission authorizes Paul Lawrence of the Pacifica Law Group to file a motion to dissolve or modify the Order and Consent Judgment issued on November 17, 2000, by U.S. District Judge Barbara Rothstein in the case of *Citylce Cold Storage Company v. the Port of Seattle*.

Commissioner Albro commented on his intention to abstain from the vote on the motion due to sympathy for separation of powers and consideration for one branch of government imposing a broad restriction on another government as well as sympathy for concerns of employees who fear loss in concessionaire transitions. He stated a concern that the Port Commission might promulgate policies under pressure from stakeholders that might violate other laws.

In response to Commissioner Holland, Mark Reis, Managing Director, Aviation Division, stated a draft concessions master plan is expected to be presented in June 2013, including options for small business through kiosk vending and appropriate measures consistent with Federal Aviation Administration review of Commission interest in extending leases with Airport Concessions Disadvantaged Business Enterprises (ACDBEs). Commissioner Tarleton stated that exemption from worker retention provisions for ACDBEs is consistent with the intent of the Commission's February 14, 2012, Airport concessions policy direction.

Motion for approval of the motion, as read into the record – Creighton

Second – Holland

Motion carried by the following vote:

In Favor: Creighton, Holland, Tarleton (3)

Opposed: Bryant (1)

Abstaining: Albro (1)

6c. (02:21:00) First Reading of Resolution No. 3668: A Resolution of the Port Commission of the Port of Seattle repealing Resolution No. 3166 and restating Port policy relating to non-discrimination and equal opportunity in employment and subcontracting by Port of Seattle contractors, subcontractors, consultants, and suppliers and establishing policies, procedures, and requirements for compliance.

Request document(s): Commission agenda [memorandum](#) dated October 15, 2012, [Resolution No. 3668](#), [Resolution No. 3166](#), [September 1, 2009, motion](#) regarding non-discrimination and equal opportunity policies, and [redline version of Resolution No. 3668](#) provided by Ralph Graves, Managing Director Capital Development, and Craig Watson, General Counsel.

Presenter(s): Mr. Graves.

Mr. Graves commented on the staff presentation on Resolution No. 3668 from October 9, 2012, and summarized the intent of the policy changes found in the resolution to make Port nondiscrimination policy consistent with current state law. He noted that aspirational language applicable to labor unions requested on October 9 had been incorporated into the resolution.

AMENDMENT

Commissioner Creighton proposed the following or similar additional language for the resolution and stated his approval for first reading would be predicated on inclusion of the substance of the same:

This motion shall not prohibit the Port implementing policies regarding non-discrimination or equal opportunity in cases where the law either requires or allows.

In response to Commissioner Creighton, Mr. Graves stated that federal requirements for affirmative action that attach to federal grants on specific projects oblige the Port to follow the terms of the grant, which would be consistent with Washington statutes.

In response to Commissioner Holland, Mr. Graves explained that workforce composition data for construction contracts is already included in affidavits filed with the Department of Labor and Industries and noted that some contractors have objected to providing the data on grounds of privacy and impracticality. Commissioner Tarleton recommended including workforce data as an aspirational goal.

Motion for first reading of Resolution No. 3668, with amendments – Creighton

Second – Holland

Motion carried by the following vote:

In Favor: Bryant, Creighton, Holland, Tarleton (4)

Absent for the vote: Albro

AMENDMENT

Subsequent to the vote on First Reading, Commissioner Albro proposed including language in the resolution to emphasize application of the non-discrimination policy to labor unions.

6d. (02:29:36) Authorization for the Chief Executive Officer to: (1) advertise and execute a construction contract for Phase 1 of the Ground Support Equipment-Electrical Charging Stations Project – Installation of Chargers; and (2) pre-purchase electrified ground support equipment (EGSE) chargers for Phase 2 of the project. This authorization totals \$16,200,000 (including \$200,000 expense) of the total estimated project cost of \$30,700,000.

Request document(s): Commission agenda [memorandum](#) dated October 15, 2012, provided by David Soike, Director, Aviation Facilities and Capital Program, and Wayne Grotheer, Director, Aviation Project Management Group.

Presenter(s): Mr. Soike, Mr. Grotheer, and Dan Thomas, Chief Financial and Administrative Officer.

The Commission received a presentation that included the following information:

- The authorization contributes to the conversion to electrical power from fossil fuels of aircraft ground support equipment such as baggage tugs, tractors, aircraft loaders, and similar equipment;
- Benefits include savings from fuel and maintenance costs for airlines and emissions reductions for the Airport;
- A prototype project is underway with Alaska Air Group;
- The timing of the authorization is predicated in part on an attempt to leverage a Washington sales tax exemption, U.S. Department of Energy grants related to electrified equipment and charging stations for electrified vehicles, and a Voluntary Airport Low Emissions grant from the Federal Aviation Administration; and
- Staff does not believe that acceleration of Phase I of the project is a significant risk due to implementation of the pilot project with Alaska Air Group, potential changes to the routing of the electrical conduit is expected to be easier and less costly to manage than the larger and heavier conduit used for the Preconditioned Air project, and night work on the project is already planned for operational needs and does not represent an effort to accelerate work by adding shifts.

In response to Commissioner Creighton, Mr. Grotheer stated that final project design is complete and staff hopes to advertise the construction contract within a week. In response to Commissioner Bryant, Mr. Soike noted that approval of the request would obligate the Port to a commitment to future revenue bonds in an amount that is not definitive at this time and for which a plan of finance has not yet been approved.

Motion for approval of item 6d – Bryant

Second – Holland

Motion carried by the following vote:

In Favor: Albro, Bryant, Creighton, Holland, Tarleton (5)

6e. (02:45:58) Second Reading and Final Passage of Resolution No. 3669: A Resolution of the Port Commission of the Port of Seattle declaring certain permanent access easements, and the electrical infrastructure improvements located at: 2585 S 194th St, SeaTac, WA, on Port property on S 194th/196th St, SeaTac, WA, within the public right of way on 28th Ave S, SeaTac, WA, within the public right of way on International Blvd, SeaTac, WA, and at 3150 S 160th St, SeaTac, WA to be surplus and no longer needed for port district purposes and authorizing the Chief Executive Officer to execute all documents necessary for conveyance of the permanent access easements on the real property and title to these electrical infrastructure improvements to the City of Seattle and Puget Sound Energy.

Request document(s): Commission agenda [memorandum](#) dated October 10, 2012, [Resolution No. 3669](#), and electrical infrastructure improvements diagrams for the [Rental Car Facility](#) and [Bus Maintenance Facilities](#) provided by George England, Program Leader, Aviation Project Management Group.

There was no presentation at this time. First Reading and Public Hearing of Resolution No. 3669 was conducted during the Commission meeting of October 9, 2012, and the request documents were distributed for review prior to the meeting of October 23, 2012.

Commissioner Creighton requested further discussion on the topic of Port policies regarding granting of easements such as those described in the resolution.

Motion for approval of item 6e – Bryant

Second – Creighton

Motion carried by the following vote:

In Favor: Albro, Bryant, Creighton, Holland, Tarleton (5)

7. STAFF BRIEFINGS

7a. (02:49:13) Briefing on the Tax Levy and the Draft Plan of Finance 2013-2017.

Presentation document(s): Commission agenda [memorandum](#) dated October 11, 2012, and computer slide presentations on the [Airport Fund balance follow-up](#), [2013 draft plan of finance](#), and [tax levy funding plan](#) provided by Elizabeth Morrison, Director, Corporate Finance.

Presenter(s): Ms. Morrison and Dan Thomas, Chief Financial and Administrative Officer.

Mr. Thomas reported that copies of the preliminary budget were distributed to Commissioners on October 23, 2012. He stated that revisions made based on Commission comments to date were included in the document and would be described further in the presentation on November 13, 2012.

Regarding the Airport Fund balance, the following information was presented:

- Uses of cash includes payment of operating expenses, debt service payment, and cash-funded capital projects;
- Uses of cash and cash balance at the end of 2011 were compared;
- Extraordinary uses of cash, such as for self-insurance for earthquakes and to fund the Rental Car Facility project during the beginning of the Recession were noted;
- The origin of the 10-month cash target was described and the effect of reducing the debt service and other costs charged to airlines with a corresponding reduction to the Airport's margin was noted;
- The overall target of nine months of operations and maintenance cost, which translates to 10 months for the Airport and six months for the Seaport and Real Estate Divisions, was described;
- The effect of reduction in Airport liquidity as a factor in assessing the Port's credit position was discussed;
- The negative outlook on the position of the airport industry in the view of credit rating agencies since 2008 was emphasized;
- It was noted that Moody's median target for highly rated airports is approximately twice the Airport's current target for cash on hand, although actual cash on hand for the Airport is consistently higher than the Airport target; and

- While it is not the recommendation of staff to raise the Airport cash targets, it was noted that the level of the Airport's current target for cash on hand is likely as low as the credit industry will bear.

Commissioner Albro commented on the overall subjective character of the Port's credit rating and the need to consider the strength of the Airport's brand and continued growth during difficult economic times and the trade-offs associated with reserving cash rather than investing it in capital projects as a short-term strategy.

Regarding the draft plan of finance, the following information was presented:

- Assumptions in the plan of finance include that the Airport is a self-funding operation, Seaport operating income supports its capital program, and the Real Estate Division is supported by the tax levy;
- The target for use of the tax levy to pay general obligation bonds is a 75-percent maximum;
- Targets for debt service coverage for revenue bonds is 1.5 times debt service for the Seaport and 1.25 times debt service for Real Estate;
- Funding sources for the plan of finance include net operating income, operating fund balances, revenue bond proceeds, passenger facility charges, customer facility charges, grants, and the tax levy;
- Airport funding sources total approximately \$1.4 billion, of which \$597 million is committed and \$857 million is listed as business plan prospective;
- Seaport funding sources total approximately \$296 million;
- An alternative baseline for Seaport spending based on possible lease structure modification would total \$174 million over the same five-year period;
- Real Estate funding is estimated at \$69 million;
- Corporate funding sources are estimated at \$45 million;
- Forecast for debt service coverage was presented; and
- Bond refunding candidates and future Airport bonds of \$200 - \$300 million were noted.

In response to Commissioner Bryant, Mr. Thomas commented that the use of the tax levy to fund Information and Communications Technology capital spending is open for discussion.

The following information was presented with regard to the tax levy:

- The amount of the levy is established annually by the Commission to be used, in accordance with Port policy, for the purposes defined by the Commission;
- The statutory maximum for the tax levy increases each year by the lesser of inflation or one percent plus a factor for new construction;
- Pursuant to Port policy, payment of general obligation debt service is limited to 75 percent of the tax levy, although the current level is only 55 percent;
- The statutory maximum in 2012 was \$90.3 million, although the Port levied only \$73 million, and the estimated statutory maximum for the levy in 2013 is approximately \$91.4 million;

- Drivers affecting an estimated ending balance for the tax levy in 2012 of \$48.4 million include environmental remediation recoveries, receipt of unbudgeted Rail Corridor payments of about \$18 million, and delay of projects in the Real Estate Division;
- Uses of the tax levy between 2013 and 2022 are expected to include general obligation bond debt service, contribution to the Alaskan Way Viaduct tunnel and South Park Bridge, Seaport and Real Estate Division environmental remediation costs, completion of projects associated with the Freight Action Strategy (FAST) Corridor and Highline School District noise mitigation, Argo Yard transportation project, support for the Port Jobs program, the Real Estate capital plan and support for the net income deficit of the Real Estate Division;
- Assuming maintenance of the tax levy at \$73 million through 2022, it was noted that a \$121 million deficit would result by 2022;
- An update on Port support for the Alaskan Way Viaduct replacement was provided that noted \$19 million paid to date and \$31 million set aside in the transportation and infrastructure fund and the status of the fund was noted at \$36 million, which includes \$5 million projected to be used for the South Park Bridge;
- Provided \$226 million of bonds are used for the Transportation and Infrastructure Fund, the debt service would be \$18 million annually; and
- Other potential funding needs for the tax levy were noted as were possible savings or revenue that might apply to the levy fund balance.

Commissioner Albro requested more information on the Real Estate tax levy uses through 2022 and additional detail on payments toward the Viaduct replacement memorandum of understanding.

Four scenarios for the tax levy were presented showing the relative position of tax-levy funded uses based on different rates of levy increase, various options for funding the Port's commitment to the Alaskan Way Viaduct Replacement, and possibilities relative to additional real estate revenue and other factors based on closing the \$121 million fund deficit, including the option to delay any tax levy increase until 2014.

Ms. Morrison reported that the recommendation of staff is a tax levy of \$75.2 million in 2013, with a three percent annual increase over the next 10 years. Commissioner Tarleton noted that the costs for the tax levy uses would not be evenly distributed over the 10-year period. Commissioner Creighton requested detailed assumptions associated with each of the scenarios presented by staff.

Commissioner Bryant was absent after 5:11 p.m.

8. NEW BUSINESS

(04:08:09) Statement Regarding Ethics Complaint Against Commissioner Creighton.

Commissioner Creighton commented on an ethics complaint filed with the Office of Workplace Responsibility alleging improper action by him in supporting the ACDBE motion of September 11, 2012. He stated his confidence that he had acted properly and commented on his considerations when acting in the interest of good public policy and spoke in favor of addressing the allegations expeditiously. Commissioner Tarleton noted that the option of retaining attorney Russ Perisho to

review the complaint was already under consideration by the temporary committee consisting of her and Commissioner Albro.

9. POLICY ROUNDTABLE

None.

10. ADJOURNMENT

There being no further business, the special meeting was adjourned at 5:15 p.m.

Bill Bryant
Assistant Secretary
Minutes approved: January 8, 2013.